

Policy On Acquired Art

City of Alexandria

**CITY OF ALEXANDRIA'S POLICY
FOR THE PURCHASE, COMMISSION AND DONATION
OF WORKS OF ART
BY THE CITY OF ALEXANDRIA**

The purpose of this Policy is to promote and encourage private and public entities to further the development and public awareness of and interest in art and cultural activities in the City of Alexandria. The goal is to integrate art into the City and to encourage economic development, stimulate interest in art and enhance Alexandria's reputation as a national leader in the arts. This Policy seeks to provide for future artistic endeavors and the promotion of Alexandria's cultural heritage, strengthen community pride and foster tourism.

SECTION ONE -- GENERAL PROCEDURE

1.1. **RESPONSIBILITY.** The ~~authority~~ ultimate responsibility for the purchase, including the commissioning and acceptance of works of art by the City of Alexandria (the "City") ~~is rests~~ with the City Council. It shall be the policy and practice for the City Council to seek a formal recommendation from the Alexandria Commission for the Arts (the "Commission") when a work of art is to be purchased, commissioned or donated to the City or when funding for educational and other art related programs is requested. The Commission and its subordinate bodies, the Public Art Committee shall act in accordance with this Policy Statement and any internal guidelines established by the Commission.

a. To encourage artistic expression in Alexandria no more than one art project by any one artist shall be acquired, donated, commissioned, or funded within a period of seven (7) years. All exceptions to this procedure must be approved by the City Council, the Commission and the Public Art Committee.

b. Prior to the approval of any art acquisition, commission, donation, purchase or funding for a program, a site for the work must be pre-identified and approved by the Recreation, Parks and Cultural Activities Department and the Planning and Zoning Department along with the Commission, the Public Art Committee, and other appropriate City departments or committees, in addition, the art acquisition, commission, donation, purchasing, or funding for a program must be approved by City Council.

c. The City may negotiate public art pieces on private property as part of the site planning process. The Recreation, Parks and Cultural Activities Department and the Planning and Zoning Department along other City departments will work with the Commission on these private public art projects.

- 1.2. DEFINITIONS: Alexandria Commission for the Arts shall be defined as § 2-4-90 of the Code of the City of Alexandria (1981) as amended.
- a. City Council, shall mean the Alexandria City Council as defined in § 2-1-1, et. seq., of the Code of the City of Alexandria(1981 as amended).
 - b. Permanent Works of Public Art or Permanent Art Programs work mean all works of art purchased, donated, commissioned or funded which shall be displayed or kept for two years or more, and shall be subject to competitive selection. Such process shall have been approved by the Commission and the Public Art Committee. All exceptions to this procedure must be approved by the City Council.
 - c. Public art, as defined by this policy, encompasses the broadest definition of art including the imaginative use and interplay of all artistic disciplines, including but not limited to performing arts and street fairs. Public art governed by this Policy shall be art that is visually or physically accessible to the public that is acquired by City funds, donated to the City, or approved by the City Council.
 - d. Public Art Committee shall be established by the Alexandria Commission for the Arts to advise the Commission regarding, purchase, commission, donation and funding of art.
 - e. Public art project shall mean:
 - (1) The commissioning of permanent works of art designed for specific public sites in Alexandria;
 - (2) The loan, purchase, donation or commission of art deemed appropriate for public sites;
 - (3) Artists contracted to work as integral members of architectural, infrastructure, and urban design teams; and,
 - (4) Installations, artist-in-residence programs, and other short term projects or planning activities that result in the creation of temporary or permanent public art.
 - f. Site Integrated Works of Public Art is art that is physically a part of a facility that cannot be removed or relocated without destroying the artwork. The lifespan of a site integrated work of public art can be temporary or permanent but terminates the end of the City ownership or with the demolition of the facility or specific site in the facility such as a wall, floor or as well, outside plaza areas.

- g. Temporary Works of Art or Programs shall mean any art or program which is displayed in City owned public place or space for a period up to two (2) years. Temporary works of art may be displayed, commissioned or funded without the use of a competitive selection process.

~~1.2.3.~~ **PUBLIC ART COMMITTEE: REVIEW PANEL.** The Commission shall establish and appoint the members of a Public Art Committee (the "Committee") to advise the Commission on the purchase, **commission, donation and funding** ~~of works of art.~~

~~1.3.2.1.~~ The Committee will consist of **up to thirteen (13)** ~~five~~ members, as follows:

- (1) One Commissioner from the Commission for the Arts with expertise in art;
- (2) Up to five (5) persons who reside or work within the City with expertise in urban planning, landscape architecture and/or architecture;
- (3) Up to five (5) persons who reside within the City such as ~~an two~~ artists or arts professional; and ~~who reside or work in the City;~~
- (4) Two (2) persons who reside in the City with an interest in art.

~~two artists or art professional who may or may not reside in the City; and one citizen resident of the City.~~

~~1.3.2.~~ The Chair of the Public Art Committee shall be appointed by the Chair of the Commission for the Arts.

~~1.3.2.3.~~ Committee members will serve three-year terms. ~~Initial terms will be two three-year terms, two two-year terms and one one-year term to be determined by lot.~~ Committee members may serve a maximum of ~~one~~ **two** full three-year terms. **Members may be reappointed to the Public Art Committee after a hiatus of two years.**

~~1.2.3.~~ ~~The Committee will have the right as it deems appropriate to appoint subordinate bodies and to consult Commission Resource Panels for advice on the acquisition of particular works of art.~~

- 1.3.2.4. The Committee will make its recommendations to the Commission regarding acquisitions, **donation, commission and/or funding** of particular works of art at the **request of City Council as expeditiously as possible.** ~~next regular Commission meeting held after the Commission requests the Committee's assistance unless a different timetable is agreed upon by the Commission and the Committee.~~
- 1.3.2.5. Members of the Committee are subject to all conflict-of-interest policies of ~~the Commission~~, the City of Alexandria and Commonwealth of Virginia as detailed in Appendix A.
- 1.4.3. **PUBLIC NOTICE. CITIZEN INVOLVEMENT.** The public shall be notified of a prospective purchase, commission, donation or funding of art, to the extent practicable, by notification in the local newspaper, on the City's website and the Commission for the Arts website. **In addition,** ~~The public will be encouraged to express opinions, in writing, to the Commission.~~
- ~~1.3.1.~~ **1.3.1.** a photograph or model **or other means of notification may be used.** Such notification shall be made at least two (2) weeks prior to the date of ~~of a prospective purchase (including as much information about the work as possible) will be displayed for public viewing in one or more prominent areas within the City at least two weeks before the Commission meetings~~ to consider the acquisition, **purchase, donation, or funding of the art or program.** If the purchase or acquisition involves public funding, notice and information about the public art will be in the public notice in a local newspaper and posted on the City's website.
- 1.5.4. **COMMISSION RECOMMENDATION.** **After a review of the Public Art Committee's report,** the Commission shall adopt a formal recommendation to the City Council. ~~relating to the proposed acquisition of any work of art by the City.~~
- 1.6.5. **FUNDING.** Commission funds ~~will be~~ **may be** set aside for the acquisition **and commission** of art in accordance with this Policy ~~Statement.~~ The Commission may also seek other sources of funding for this purpose.
- 1.7.6. **REFUSAL.** The Commission reserves the right to recommend that the City Council refuse any work of art.
- 1.8.7. **WORKS OF HISTORIC VALUE.** This policy shall not apply to any existing or future policies and procedures of the City of Alexandria and the Office of Historic Alexandria relating to works of historic interest and/or **historic** value.

- 1.9.8. **COMMISSION REVIEW REQUIRED.** Except as provided for in, paragraph 1.8.7, above, all works of art purchased with City funds are subject to this Policy Statement and guidelines promulgated by the Commission.
- 1.10.9. **ART OWNED, FABRICATED OR DONATED BY A CITY EMPLOYEE. PRIOR APPROVAL OF CITY ATTORNEY.** No work of art owned by, under the control of or fabricated by a City employee shall be eligible for purchase or commission by the City without the prior approval of the City Attorney.

SECTION TWO

RIGHTS AND RESPONSIBILITIES OF THE ARTIST, **DONOR** AND THE CITY **OF ALEXANDRIA**

- 2.1. **WRITTEN PURCHASE AGREEMENT.** No work will be purchased without a written agreement between the artist and/or donor and the City. **The agreement must be which has been approved by the City Council and signed by the City Manager or his designee.** Such agreement shall, prior to its submission to the City Council, be approved by the Commission and, as to its legal sufficiency, by the City Attorney.

~~Sample standard contracts indicative of a typical agreement for the purchase of a work of art and typical agreement for the Commission of a work of art are attached to this Policy Statement. The Commission and the City Council may vary the terms of either if these sample agreements as circumstances require.~~

The City may require the Artist to waive all rights that she/he may have under the Visual Arts Rights Act, 17 U.S.C. § 101 et.seq. (1990) (“VARA”) to protect the City’s interest. This waiver will permit the City to relocate, remove or deaccession the art. However, the City will make reasonable efforts to notify the artist before removal or relocation. In any event, the City has the right to relocate or remove art without notification to the Artist under emergency situations where art poses a threat to public safety or may harm public property.

- 2.2. **SITE-SPECIFIC WORKS OF ART.** Unless otherwise agreed **to in writing, by contract** the artist **or donor shall** will be responsible for fabrication, transportation, **and installation, and maintenance of the art. works.** The City will not assume liability for injuries to persons or property during installation. ~~of works.~~
- 2.3. **MAINTENANCE.** The artist or donor shall provide detailed instructions for the maintenance and ongoing care of the art, including future maintenance cost. The artist or donor may be required to fund an escrow account to cover the costs of maintaining the art.
- 2.4. **INSTALLATION.** The artist or donor shall provide detailed instructions for the installation requirements of the art and shall be responsible for fabrication, transportation and installation costs of the art. The artist or donor may be required to escrow funds to cover the costs to install the art.

- 2.5. ~~2.4. RECORDS.~~ The Commission ~~or~~ of its agent(s) will maintain a permanent record of ~~art works~~ owned by the City.

~~2.4.1 The Artist must complete a catalog worksheet supplied by the City before final payment for the work will be processed. The worksheet will include such information as the artist's name and the medium used.~~

- 2.6. ~~2.5 CREDITS.~~ A notice, including ~~but not limited to,~~ the artist's ~~and/or donor's~~ name and ~~stating that mentioning~~ the City ~~is the owner of the art,~~ ownership, will be publicly displayed and identified with the ~~art-work.~~ ~~In the event the donor requests to remain anonymous, the credit will reflect this.~~ This notice will be fabricated, installed and paid for by the City. The Commission will approve the design of the notice.

- 2.7. **INSURANCE.** The City will insure, through commercial insurance or its own policy of self-insurance, all completed works of art purchased by the City for amounts and under conditions the City, with the advice of the Commission, deems appropriate. ~~The City will not necessarily insure works of art for the valued amount set forth in an appraisal submitted by donors or other valuations submitted by donors.~~

- ~~2.8.3. DEACCESSIONING.~~ Deaccessioning means the formal process used to remove a ~~work~~ of art from the City's collection.

~~2.7.3.1.~~ This Policy Statement specifically contemplates that works from the City's collection may, from time to time, be sold or otherwise disposed of.

~~2.7.3. Proposals to the City Council with respect to deaccession of works from the City's collection shall be previously considered by the Commission and the Panel.~~

~~2.7.3.2.~~ In determining whether any ~~art work is to~~ ~~may~~ be deaccessioned, ~~the following factors may be considered:~~ ~~consideration is given to:~~

- a. the City's ability to continue properly to preserve or care for the work;
- b. the extent to which the work may, in the context of the collection, be surplus, redundant, ~~or~~ a duplicate ~~or~~ of inferior quality;
- c. the extent to which the disposition of the work may, whether by exchange or through use of proceeds derived from its sale, permit the City to upgrade and refine the collection; ~~and/or~~

- d. whether such work has been found to have been falsely documented, described or attributed and/or to be a forgery;
- e. whether the artist or donor has failed to comply with the terms of any contract with the City; and
- f. whether deaccessioning of the art would be in the best interest of the City.

~~2.7.3.3.~~ No work that has been acquired by the City with a restriction as to its retention may be deaccessioned while such restriction remain in force. The Recreation, Parks and Cultural Activities Department through the Commission or designee of its agent shall be notified by the City Council of all such restrictions at the time of acquisition and will maintain a record of those restrictions.

~~2.7.3.4.~~ If art was a work originally received as a gift for a still-living donor or purchase from a still-living artist, the City will, as a matter of courtesy, notify that person of any determination made by the City to deaccession that work.

~~2.7.5.~~ The following methods of deaccession may be considered: exchange, public auction and private sale. If the work is sold, the proceeds from the sale of the deaccessioned work will be appropriated to the Commission. The details of the manner in which any deaccessioned work has been disposed of shall be a matter of public record.

~~2.7.3.6.~~ The manner in which a collection work which has been deaccessioned is to be disposed of shall be determined by the City Council with the advice of the commission. Except in the case of a work which has been found to have been falsely documented, described or attributed and/or to be a forgery, no single method is considered preferable for every instance. Among the methods which The following methods of deaccession may be considered: are:

- a. exchange;
- b. public auction; and
- e. private sale.

- ~~2.7.3.7.~~ In the case of a work which is found to have been falsely documented, described or attributed and/or to be a forgery and which is subsequently deaccessioned, additional consideration must be given to the protection of the public's interest. Depending upon the manner in which the work was originally acquired and all of the surrounding circumstances, consideration may be given to:
- ~~a.~~ rescinding any purchase by which the work was required;
 - ~~b.~~ depositing the work on a long term basis in a scholarly archive devoted to the study of such material; and/or
 - ~~c.~~ except in the case of a forgery and only if any error in the work's documentation, description or attribution will not thereby be perpetuated, public auction or private sale.
- ~~2.7.3.8.~~ The details of the manner in which any deaccessioned work has been disposed of shall be a matter of public record.
- ~~2.7.3.9.~~ If a work of art was purchased by the City from an artist is sold by the City during the lifetime of that artist, the artist shall be entitled to a royalty equal to seven (7) per cent of the difference between the City's purchase price and the gross sale price or fair market value of any property received in exchange for the work. This paragraph will not apply to the following:
- ~~2.3.9.1.~~ ~~1.~~ The resale of a work for a gross sale price less than \$500, or in exchange for property with a fair market value of less than \$500; and
 - ~~2.3.9.2.~~ ~~2.~~ The resale of a work for a gross sale price of less than 140 per cent of the purchase price paid by the City, or in exchange for property with fair market value of less than 140 per cent of the purchase paid by the City.
- ~~2.7.3.10.~~ Proceeds from the disposition of deaccessioned works will be returned to the Commission's purchase fund.

**POLICY
FOR THE ACCEPTANCE OF DONATIONS
OF WORKS OF ART
BY THE CITY OF ALEXANDRIA**

SECTION ONE -- PROCEDURE

- 1.1. ~~**RESPONSIBILITY.**~~ The ultimate responsibility for the acceptance of donations of works of art by the City of Alexandria (the "City") rests with the City Council. It shall be the policy and practice for the City Council to seek a formal recommendation from the Alexandria Commission fro the Arts (the "Commission") when a work of art is offered to the City as a gift. The Commission and it subordinate bodies shall act in accordance with this Policy Statement and any internal guidelines established by the Commission.
- 1.2. ~~**REVIEW PANEL.**~~ The Commission shall establish and appoint the members of a Public Art Committee (the "Committee") to advise the Commission on tech acceptance of donated works of art.
- 1.2.1. The Committee will consists of five members, as follows:
- ~~_____~~ two artists or arts professionals who reside or work in the City;
 - ~~_____~~
 - ~~_____~~ two artists or arts professionals who may or may not reside or work in the City; and
 - ~~_____~~ one citizen resident of the City.
- 1.2.2. ~~Committee members will serve three year terms. Initial terms will be two three-year terms, two two-year terms and one one-year term, to be assigned by lot. Committee members may serve a maximum of one full three year term.~~
- 1.2.3. ~~The Committee will have the right as it deems appropriate to appoint subordinate bodies and to consult Commission Resource Panels for advice on the acquisition of particular works of art.~~
- 1.2.4. ~~The Committee will make its recommendations regarding acquisitions of particular works of art at the next regular monthly Commission meeting held after the Commission requests the Committee's assistance, unless a different timetable is agreed upon by the Commission and the Committee.~~

- ~~1.2.5. Members of the Committee are subject to all conflict of interest policies of the Commission, the City of Alexandria and the Commonwealth of Virginia as detailed in Appendix A.~~
- ~~1.3. **CITIZEN INVOLVEMENT.** The public will be encouraged to express opinions, in writing, to the Commission.~~
- ~~1.3.1. A photograph or model of prospective donation (including as much information about the work as possible) will be displayed for public viewing in one or more prominent areas within the City at least two weeks before the commission meets to consider the acquisition.~~
- ~~1.4. **COMMISSION RECOMMENDATION.** The Commission shall adopt a formal recommendation to the City Council relating to the proposed acquisition of any work of art by the City.~~
- ~~1.5. **REFUSAL.** The Commission reserves the right to recommend that the City Council refuse any work of art.~~
- ~~1.6. **WORKS OF HISTORIC VALUE.** This policy shall not apply to any existing or future policies and procedures of the City of Alexandria and the Office of Historic Alexandria relating to works of historic interest and/or value.~~
- ~~1.7. **COMMISSION REVIEW REQUIRED.** Except as provided in paragraph 1.6, all works of art offered as gifts to the City are subject to this Policy Statement.~~
- ~~1.8. **PRIOR APPROVAL OF CITY ATTORNEY.** No work of art owned by, under the control of or fabricated by a City employee shall be eligible for purchase or commission by the City without the prior approval of the City Attorney.~~

~~SECTION TWO -- RIGHTS AND RESPONSIBILITIES OF THE DONOR AND THE CITY~~

2.8 POLICIES SPECIFIC TO DONATED ART.

- 2.8.1. **LOANS.** The City will consider accepting works of art on loan where it determines that ~~acceptance of the loan of the work will~~ **be in the best interests of** benefit the City. All such ~~loaned~~ **art** shall be for a definite time period. ~~based on the life of the donor.~~
- 2.8.2. **LIFE ESTATES.** The City will consider accepting the donation of any work of art in which the donor or ~~one other~~ **another** person retains an interest for life where it determines that acceptance of the work will **be in the best interest of** the City.
- 2.8.3. **FRACTIONAL INTERESTS.** The City will consider accepting the donation of fractional interest of any work of art where it determines that acceptance of the work will **be in the best interest of** benefit the City.
- 2.8.4. **COPYRIGHT.** Each donation must be accompanied by a clear statement from the donor regarding ownership of the copyright for ~~that~~ **the** work of art.
- ~~2.5. DEACCESSIONING. Deaccessioning means the formal process used to remove a work of art from the City's collection.~~
- ~~2.5.1. This Policy Statement specifically contemplates that works from the City's collection may, from time to time, be sold or otherwise disposed of.~~
- ~~2.5.2. Proposals to the City Council with respect to deaccession of works from the City's collection shall be previously considered by the Commission and the Panel.~~
- ~~2.5.3. In determining whether any work is to be deaccessioned, consideration is given to:~~
- ~~— The City's ability to continue to properly preserve or care for the work;~~
 - ~~— The extent to which the work may, in the context of the collection, be surplus, redundant, or a duplicate of inferior quality;~~
 - ~~— The extent to which the disposition of the work may, whether by exchange or through the use of proceeds derived from its sale, permit the City to upgrade and refine the collection; and/or~~
 - ~~— Whether such work has been found to have been falsely documented, described or attributed and/or to be a forgery.~~

~~2.5.4. No work which has been acquired by the City with a restriction as to its retention may be deaccessioned while such restriction remains in force. The Commission or its agent shall be notified by the City Council of all such restrictions at the time of acquisition and shall maintain a record of those restrictions.~~

~~2.5.5. If a work was originally received as a gift from a still living donor or purchased from still living artist, the City will, as a matter of courtesy, notify that person of any determination made by the City to deaccession that work.~~

~~2.5.6. The manner in which a collection of work that has been accursed is to be disposed of shall be deaccessioned is to be disposed of shall be determined by the City Council with the advice of the Commission. Except in the case of a work that has been found to have been falsely documented, described or attributed and/or to be forgery, no single method is considered preferable for every instance. Among the methods which may be considered are: Exchange; Public auction; and Private sale.~~

~~2.5.7. In the case of work which is found to have been falsely documented, described or attributed and/or to be a forgery and which is subsequently deaccessioned, additional consideration must be given to the protection of the public's interest. Depending upon the manner in which the work was originally acquired and all of the surrounding circumstances, consideration may be given to:~~

- ~~—— Rescinding any purchase by which the work was acquired;~~
- ~~—— Depositing the work on a long term basis in a scholarly archive devoted to the study of such material; and/or~~
- ~~—— Except in the case of a forgery and only if an error in the work's documentation, description or attribution will not hereby be perpetuated, public auction or private sale.~~

~~2.5.8. The details of the manner in which any deaccessioned work has been disposed of shall be a matter of public record.~~

~~2.5.9. If a work which was donated to the City by an artist is sold by the City during the lifetime of that artist, the artist shall be entitled to a royalty equal to seven (7) per cent of the difference between the City's purchase price and the gross sale price or the fair market value of any property received in exchange for the work. This paragraph will not apply to the following:~~

~~2.5.9.1. — The resale of a work for a gross sale price of less than \$500, or in exchange for property with a fair market value of less than \$500; and~~

~~2.5.9.2. The resale of a work for a gross sale price of less than 140 per cent of the purchase price paid by the City, or in exchange for property with a fair market value of less than 140 per cent of the purchase price paid by the City.~~

~~2.5.10. Proceeds from the disposition of deaccessioned works will be returned to the Commission's purchase fund.~~

~~2.6. **RECORDS.** The Commission or its agent(s) shall maintain a permanent record of works owned by the City.~~

~~2.6.1. Donors will complete a catalog worksheet for each work of art, including such information as the artist's name and the medium used.~~

~~2.7. **CREDITS.** The donor will be named in the City's permanent record and whenever a work of art is exhibited unless the donor requests to be anonymous.~~

~~2.9. **APPRAISALS.** Neither the Commission nor the **Public Art Committee Panel** will provide to donors appraisals of donated works of art. The Commission will require a donor to submit an appraisal of the donated work of art. **The appraisal shall be completed** by a member of the American Society of Appraisers for insurance purposes. This requirement may be waived at the discretion of the Commission.~~

~~2.9. **INSURANCE.** The City will insure, through commercial insurance or its own policy of self insurance, all completed works of art accepted for its collection for amounts and under conditions the City, with the advice of the Commission, deems appropriate. The City will not necessarily insure works or art for the amount at which such works are valued in appraisals submitted by donors or solicited by the city or the Commission.~~